

**REMARKS/ARGUMENTS**

The January 20, 2004 Office Action rejected all of the claims that were pending in the application. It is respectfully submitted that a careful review of the references cited in connection with these rejections, clearly shows that pending claims are not obvious in view of the references. Further, it is submitted that even prior to the above amendments the claims were not rendered obvious in view of the references. However, the above amendments are provided to emphasize areas of distinction relative to the references.

It is noted that the Office Action states that Applicant's previous amendment "necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.**" Office Action, p. 11. In fact, as shown in the previous response, submitted in this matter, prior to this present Amendment, there had been no substantive amendments to any of the claims. Accordingly, it is respectfully submitted that the January 20, 2004 Office should not be a Final Office Action.

**The Present Application:**

The present application shows a method and system where a user can enter information which is transmitted to a central server. In response to receiving this information, the central server opens an on-line brokerage account and the user is provided with an account identifier and a password for the opened on-line brokerage account. Initially, the user will be able to access a limited number of features of the on-line brokerage account, wherein the account will initially be a restricted account, such that a user will not be able to actually put money in the brokerage account, or trade securities in the account, until the entire on-line brokerage account application processing has been successfully completed. Given, that it can typically take a number of days, and in some cases weeks, to complete all of the on-line account opening procedures, new customers can gain a great deal benefit by being able to access on-line brokerage account features, while the on-line brokerage account procedures are being conducted. Examples of some possible advantages can include, that the customer will have the opportunity to become familiar with the interfaces, and operations of the on-line brokerage account, so when the restrictions are lifted, and the account is funded, the customer will be able to immediately begin investing in, and trading securities. Access to the on-line brokerage account can also allow a customer to begin researching stocks and mutual funds through the on-line brokerage account,

and additionally the user can possibly set up watch lists, which allow a user to use the on-line brokerage account to monitor selected securities.

It is respectfully submitted that none of the cited references appears to even remotely suggest the systems and methods which are set forth the pending claims. Indeed, it would appear that even if one were to take all of the references and combine their teaching, this combination would not appear to be close to the systems and methods recited by the pending claims.

**The Millard, US Patent Publication 2002/007335 A1**

Millard appears to be the primary reference which is used in connection with rejecting all of the pending claims. Millard teaches what purports to be a unique system which provides a network where members can exchange financial information and negotiate and settle securities transactions. The system of Millard does not disclose an on-line brokerage account where a customer can be and sell securities through a broker-dealer using an on-line brokerage account. In fact, Millard goes to some effort to explain that one of the problems with the prior art is that a person generally is forced to use a broker dealer to trade securities; for example, Millard states:

“Buyers and sellers cannot conduct direct, principal-to-principal transactions through a regulated exchange. Private parties are permitted by law to trade directly with each other, but generally do not have the means available to do so without an intermediary, broker-dealer, market maker or exchange.

[0016] Therefore, there is a need for a direct, principal-to-principal securities trading system for secondary transactions in securities, including unlisted, unregistered and restricted securities.”

Millard, ¶¶ 15-16. Millard goes on to expressly state that the system does not provide the functions of a broker-dealer, stating for example:

The system of a preferred embodiment of the subject invention (“the System”) operates in a way that distinguishes it from a conventional securities exchange. The System allows but does not require the posting of firm offers or require use of established, non-discretionary methods of offer interaction or transaction settlement. *The System uniquely enables principal-to-principal exchange of financial information and securities and does not perform the functions of a broker-dealer or an investment advisor.*

Millard ¶64 (emphasis added).

Millard provides a method where members can provide information as part of a membership sign-up process. Millard, ¶¶137-138. This membership sign-up process provides for different types of membership such as “Associate” “Qualified” or “Institutional”. Millard, ¶143. While different types of memberships will have access to different features of this system,

the Millard system does not provide for restricted accounts, where the restriction are removed when a user completes an application in a predetermined time. Indeed, it appears that the operation of the Millard system is that a user can sign up and then they will have access to the system. This sign up procedure requires providing a certain minimum amount of information, and additionally, the system appears to provide an option where a user can provide credit card information in conjunction with signing up for access to the network. Millard, ¶¶ 137-142. However, there appears to be no discussion related to having a user supply account information, and then based on this account information opening an on-line brokerage account which is restricted, and also based on the account information generating an application, then upon receipt of the application with required information, within a predetermined amount of time, removing restrictions from the account.

It is noted that in discussing the Millard reference, the 1/20/04 Office Action refers to a number ¶s of Millard, which were referred to in the previous Office Action in connection with the present application. The October 15, 2003 Response filed in reply to the previous Office Action explained that these ¶s did not disclose the elements recited in the claims. It is respectfully submitted that this previous analysis submitted in the October 15, 2003 Response is still relevant and accurate, and is incorporated herein, but this previous discussion will not be repeated in its entirety in this present response.

#### **References Discussing Trial Use of Software:**

The Office Action cites three references as showing systems or methods where there are “products /services provided on a trial-basis depending on information initially provided by a potential user”. 1/20/04 Office Action, p. 4.

The first of these references is Waite et al. (US Patent no. 5,103,476). In connection with Waite et al. the Office Action specifically refers to a sentence at col. 3, lines 4-8, of Waite et al. which discusses assigning a license to a licensee on a temporary basis trial basis at no cost to the licensee. As further discussed in Waite et al., the focus of Waite et al. appears to be on providing a way for a user to test software prior to having to actually purchase a license. See e.g. Waite et al. col. 1: 6-31.

The above operation of Waite et al. appears to be very different in both its operation and purpose than that recited in the pending claims. First, the operation described in Waite et al. appears to be directed to giving a potential licensee an opportunity to test software. As a result of the test, the user may or may not decide to pay for a license. It is respectfully submitted that this type of operation would in no way appear to suggest that it would be advantageous to open an on-line brokerage account, with restrictions, and then removing the restrictions, after an application process is completed. The application process for opening a brokerage can take a number of days. As described above, a user with access to restricted brokerage account, can begin researching investments and the like, even while the application process is in process, but not yet completed. This time period of allowing access to a restricted account, is not intended to provide an opportunity to test the software, and indeed, the customer is typically not purchasing a software license in connection with opening an on-line brokerage account. Typically, the broker dealer charges a commission on trades, and for other financial services, but they do not charge a license fee.

The second of the references regarding trial use of software, cited in the 1/20/04 Office Action is May (US Patent no. 6,021,492). In connection with discussing the May reference, the Office Action refers to a number of parts of the teaching of May. Having reviewed the May reference, it appears that May teaches a system and method for managing the metering of software used by remote devices. As described in the Summary of the Invention of May at col. 2: lines 5-42, the software metering provides limits on the use of software. May discusses a number of different types of situations where software metering could be beneficial; these types of situations include monitoring the duration time the software is activated, providing for trial of software, providing metering in connection with different software games. The discussion of May does not appear to provide any suggestion that it would be beneficial to provide some type of a restricted brokerage account, where user is provided access to an on-line brokerage account, prior to restrictions being removed from the on-line brokerage account.

The third reference referred to in the Office Action is Fuller (US Patent no. 6,216,112 B1). In connection with Fuller, the Office Action refers to discussion regarding the use of trial software. Fuller teaches a solution to the problems associated with using trial software. A solution of Fuller is to provide for sponsors who have advertisement inserted into the program. See e.g. Fuller col. 2:50-67. It is respectfully submitted that this teaching of Fuller is very

different than the idea of providing a user access to an on-line brokerage account while the on-line application is being processed, and prior to restrictions being removed from the on-line brokerage account.

**Magary, US Patent Publication 2001/0056387 A1**

Magary discloses a system for providing financial information to clients. The financial information can be information such as transaction data. Magary, Abstract. According to regulatory requirements the client must consent to receiving such financial data electronically. Magary ¶ 18. Magary provides for obtaining and storing these consents. Magary, Abstract. Magary does not, however, provide for, or relate to opening an on-line brokerage account with restrictions, and then removing the restrictions after receipt of an application with required information from a client.

**Comments on the Combination of References:**

Collectively the combination of references appears to provide little, if any, suggestion that there would be some motivation to combine their teaching. However, even if one were to assume that one of skill in the art would combine the teaching of these references, it is respectfully submitted that the combination of these references would not lead to a system or method which provides for expediting the delivery of access to an on-line brokerage account, and services provided with an on-line brokerage account. The present invention offers a system which expedites the delivery of such services, in part by providing access to a restricted on-line service account.

It is respectfully submitted that Millard appears to provide no discussion even remotely related to the idea of using a restricted on-brokerage account to expeditiously make services associated with an on-line brokerage account available to a new client.

Further, it is respectfully submitted that the references which are cited in the Office Action as relating to providing trial software, provide no teaching which when combined with Millard would suggest that it would be advantageous to make an on-line brokerage account with restrictions available to a client, so as to provide them with the services of such an account as quickly as possible.

**Response to Rejection of Claims 1-26**

Claims 1-26 of the pending application were rejected as being unpatentable over Millard et al. in view of Waite et al., May and Fuller et al. 1/20/04 Office Action.

As noted above, none of the above references appears to disclose a method or system where a user opens an on-line brokerage. Millard discusses a system where principal-to-principal exchanges can be made, and information can be exchanged. Even if one were to accept for the sake of argument that Millard disclosed opening on-line brokerage accounts (which it is respectfully submitted that it does not disclose) there still appears to be no discussion in Millard, or any of the other references, which recognize the problems addressed by the present application.

For example, claim 1 recites a method for opening an on-line brokerage account which includes:

opening an on-line brokerage account for a user based on account information received from the user, the on-line brokerage account having one or more restrictions;  
generating an application based on the account information;  
requesting that the user submit required information with the application within a predetermined time to remove the one or more restrictions from the on-line brokerage account; ~~and~~  
removing said one or more restrictions from the on-line brokerage account when the application including the required information is received within the predetermined time;  
**assigning the user an account identifier to the on-line brokerage account;**  
**assigning the user a password to access the on-line brokerage account; and**  
**providing the user with access to on-line brokerage account prior to the removing of said one or more restrictions;**  
**wherein the one or more restrictions comprise one or more of preventing the user from trading securities, and preventing the user from funding the brokerage account.**

The above elements from claim 1 highlight aspects of the invention which appear to be significantly different than the teaching of the references. It is noted that much the language added by amendment to claim 1 was derived from former dependent claims, which have been canceled. It is respectfully submitted that, as discussed above, the concept of opening a brokerage account with restrictions, and providing the user with access to the account prior to the removal of the restrictions is not disclosed in the references. Further, the operation is such that other steps (such as generating an application using based on the account information) are combined with the providing access to the restricted on-line brokerage account to expedite delivering to the customer services associated with an on-line brokerage account. It is respectfully submitted that the fundamental concept of there being a benefit of getting a new

customer access to services which are provided through the on-line brokerage account as quickly as possible, even before the account is actually operable for trading, does not appear to be recognized in any of the references. Thus, in light of the above it is respectfully submitted that claim 1 is patentable over the references. Further, claims 4-5, 7-10, and 13-18 depend from claim 1, and are respectfully submitted to be patentable for at least the same reasons as claim 1.

Claim 19 recites in part a central server which is configured to among other things: “assign the user an account identifier to the on-line brokerage account, and to assign the user a password to access the on-line brokerage account, and to provide the user with access to on-line brokerage account prior to the removing of said one or more restrictions”. As discussed above it is respectfully submitted that this type of operation is not disclosed in or suggested by the references. Thus, it is respectfully submitted that claim 19 is patentable over the references.

Claim 20 recites in part a method which includes: “providing the user with access to one or more features of the on-line brokerage account, prior to removing the one or more restrictions.” As discussed above it is respectfully submitted that this type of operation is not disclosed in or suggested by the references. Thus, it is respectfully submitted that claim 20 is patentable over the references.

Claim 21 recites in part a central server which is configured to among other things: “provide a client access to the opened on-line brokerage account prior to removing said one or more restrictions.” As discussed above it is respectfully submitted that this type of operation is not disclosed in or suggested by the references. Thus, it is respectfully submitted that claim 21 is patentable over the references.

Claim 22 recites a system for opening an on-line brokerage, where the system includes:

wherein said central server is further configured to open the on-line brokerage account, following a specified review and approval, so that the opened on-line brokerage account is initially subject to one or more restrictions,

to provide a notification to the client over the client communication channel that a restricted brokerage account has been opened, and to provide the client access to the restricted brokerage account,

to initiate the preparation and forwarding of a pre-filled-in formal account application form to the client for the opened on-line brokerage account, and

to thereafter remove said one or more restrictions from the opened on-line brokerage account when the pre-filled-in application form including required information is received from the client within a predetermined time.

As discussed above it is respectfully submitted that this type of operation is not disclosed in or suggested by the references. Thus, it is respectfully submitted that claim 22 is patentable over the references.

Claim 23 recites in part a central server which is configured to among other things: "provide a notification to the client over the client communication channel that a restricted brokerage account has been opened, and to provide the client access to the restricted brokerage account." As discussed above it is respectfully submitted that this type of operation is not disclosed in or suggested by the references. Thus, it is respectfully submitted that claim 23 is patentable over the references. Further, claim 24 depends from claim 23, and is respectfully submitted to be patentable for at least the same reasons as claim 23.

Claim 25 recites in part a system for opening an on-line brokerage account for a client which includes a central server which is configured to

wherein said central server is further configured to electronically present to the client in a non-alterable format a filled in application for the on-line brokerage account, and a click-through agreement setting forth the terms of the on-line brokerage account; and  
to open the on-line brokerage account so that the opened on-line brokerage account is initially subject to one or more restrictions, and to thereafter remove said one or more restrictions from the opened on-line brokerage account when a formal review of the client and the application for on-line brokerage account has been favorably completed and wherein said central server is further configured provide a client access to the opened on-line brokerage account prior to removing said one or more restrictions.

As discussed above it is respectfully submitted that this type of operation is not disclosed in or suggested by the references. Thus, it is respectfully submitted that claim 25 is patentable over the references. Further, claim 26 depends from claim 25, and is respectfully submitted to be patentable for at least the same reasons as claim 25.



CONCLUSION

For the reasons set forth above, it is believed that all claims now present in this application are patentably distinguishable over the references. Therefore, reconsideration is requested, and it is requested that this application be passed to allowance.

Respectfully submitted,

STALLMAN & POLLOCK LLP

Dated: March 17, 2004

By:  

Brian J. Keating  
Reg. No. 39,520

Attorneys for Applicant(s)